

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers
Wednesday, October 9, 2013
6:00 PM

1) CALL MEETING TO ORDER

The meeting was called to order at 6:00 PM.

2) ROLL CALL

Commissioners: Duncan McIntosh, Chair
 Brad Avery, Vice Chair
 Paul Blank
 David Girling
 Karen Rhyne
 Joe Stapleton
 Doug West

Staff Members: Chris Miller, Harbor Resources Manager
 Shannon Levin, Harbor Resources Supervisor

Council Liaison: Council Member Nancy Gardner

3) PLEDGE OF ALLEGIANCE – Commissioner Rhyne

4) PUBLIC COMMENTS

Chair McIntosh invited those interested in addressing the Commission to do so at this time.

Jim Mosher commented on the proposed changes to the Newport Beach Municipal Code relative to the Marine Activities Permit and stated that laws and a thorough public discussion of the laws are very important. He referenced Council's recent consideration of encroaching piers and indicated that it would have been beneficial for the Harbor Commission to review the matter first.

There being no others wishing to address the Commission, Chair McIntosh closed public comments.

5) APPROVAL OF MINUTES – September 11, 2013 Minutes

Chair McIntosh acknowledged receipt of corrections submitted by Mr. Jim Mosher.

Motion: Commissioner West made a motion to approve the minutes of the Harbor Commission of the September 11, 2013, Regular Meeting, as amended. Commissioner Stapleton seconded the motion, which carried with 6 ayes and 0 noes and 1 abstention (Commissioner Rhyne). Approved.

6) CURRENT BUSINESS

1. Review Proposed Changes to Newport Beach Municipal Code Section 17.10 – Marine Activities Permit

In an effort to simplify the Marine Activities Permit ("MAP") process for both the permittee and City, staff is proposing some conceptual changes to the Newport Beach Municipal Code ("NBMC") Section 17.10. The Harbor Commission is requested to provide input before staff requests approval from the City Council.

Harbor Resources Manager Chris Miller presented details of the report addressing proposed changes to simplify the process for MAPs. A MAP is a permit related to businesses in the Harbor and was intended to have any person or entity conducting business in the Harbor, get a Marine Activities Permit. Staff has focused on the Charter and Rental Boat industry since they have the most impact on the Harbor. He

reported that the two biggest obstacles in obtaining a Marine Activities Permit are boarding location and parking and that there are approximately twelve (12) boarding locations in the Harbor for use by charter businesses. He added that some companies have on-site parking facilities or leases/long-term agreements with neighboring properties to use adjacent lots. He addressed the terms of current MAPs, the renewal process and fees and indicated that charter businesses also pay a per-head charter tax. Mr. Miller added that specific language has not yet been drafted but that the goal is to propose changes and present the matter to Council in the next few months.

He highlighted points that staff is seeking to simplify permitting for the industry and staff. Included as suggested changes are: whether to require permit renewals if nothing has changed in terms of operation (overall passenger or vessel counts); incorporating the idea of a shared-parking concept that the Planning Division is considering; the appeal process; and MAPs would be non-transferable. He stressed that none of the proposed changes modify the current conditions or regulations. Staff is proposing to use the permit for industries that impact the Harbor the most like the recreational commercial industry.

Council Member Gardner commented on hull cleaners, copper and water quality noting that they are issues that will need to be addressed in the future.

Chair McIntosh opened public comments.

Chandler Bell, Hornblower Cruises, reported that each year they have completed a new application, which requires time, but there have been no changes to their operations. He agreed with the proposed changes.

Jim Mosher stated that the Harbor Commission should review the draft ordinance before forwarding it to Council. He wondered regarding inspection procedures for new vessels in the Harbor.

Chair McIntosh reported that if it is an inspected vessel with more than six (6) passengers, it must maintain its Coast Guard certification otherwise it cannot carry passengers for hire.

There being no others wishing to address the Commission, Chair McIntosh closed public comments.

Commissioner Girling expressed support for streamlining the process but stated that a yearly process to assess, update or summarize is good and that having permittees identify changes should be part of the process. Harbor Resources Manager Miller reported that staff has the ability to check and audit and retrieve information at any time and that operators tend regulate each other. He added that staff has focused on businesses that impact the Harbor the most.

Discussion followed regarding outstanding fees and enforcement, inclusion of paddleboat rentals and categories of businesses to include. Council Member Gardner commented on capturing users who don't have obvious stores. It was noted that the matter would relate to operators renting paddleboards, not users of paddleboards. Discussion followed regarding impacts from stand-up paddleboards, illegitimate businesses and the possibility of including them in the ordinance. Mr. Miller suggested including recreational and commercial activities. He reported on the process for the ordinance to take effect.

Vice Chair Avery stated that it seems the City does not have a lot of oversight of the charter industry in terms of staffing. He indicated that the Harbor Commission should take its time to review the entire topic in terms of people paying to use the Harbor including rentals, rates, services, revenue and City revenue. He reported that an annual review is beneficial, noted the importance of monitoring operations and suggested part-time staff to specifically provide oversight.

Council Member Gardner stated that parking requirements are not generated by particular Harbor activity but rather through parking studies.

Vice Chair Avery noted that the matter could be considered through a comprehensive review.

Commissioner West commented on shared parking. In response to his question, Council Member Gardner stated it could be addressed through conditions of approval.

Chair McIntosh commented the Planning Division's involvement in relation to peak parking times.

Commissioner Stapleton commented on the benefits of increasing staff's efficiency. In response to his inquiry, Chandler Bell noted that 90% of the time, an application for renewal is submitted without changes. He added that if a vessel is moved, the City is notified immediately.

Commissioner Stapleton indicated wanting to see a final reading of the ordinance before it goes to Council. He commented positively on the concept of shared parking noting that it seems to work well in Corona del Mar.

In response to Commissioner Rhyne's inquiry, Harbor Resources Manager Miller indicated that changes should be reported immediately and that same should be spelled out within the ordinance to avoid ambiguity.

Discussion followed regarding continuing with a yearly review and/or having changes trigger events. Harbor Resources Supervisor Shannon Levin reported that when a company is on a permit system, a month prior to their permit expiring, the permittee will receive a renewal application to be submitted to the City for updating and filing. She added that 95% of the time, there are no changes. It was noted that an annual statement indicating that nothing has changed should be submitted. Ms. Levin reported that it could be incorporated in the initial agreement. Ensuing discussion pertained to requiring certification that there have been no changes or listing items that have changed. Ms. Levin commented on the importance of points of contact and establishing a mechanism for reporting changes or certifying that there have been none. Mr. Miller commented that if there are not changes, fees would not apply but that they would if changes have occurred such as parking agreements or insurance.

Chair McIntosh stated that no two charter boats are the same and suggested that changing a vessel would trigger an event and commented on mobile sanitation and pump outs.

Discussion followed regarding businesses/offices running off vessels. It was noted that the code prohibits it.

Council Member Gardner commented on small, fly-by-night businesses. Commissioner West asked how hull-cleaning businesses are captured and Harbor Resources Manager Miller reported they are monitored through the Business License process. Commissioner West stressed the importance of capturing all commercial activity in the Harbor and commented on recreational activity that involves risks to the public. Chair McIntosh commented on prior practices requiring all independent contractors to register prior to performing work in the Harbor. Mr. Miller commented on challenges keeping track of independent contractor activity. He added that the hull-cleaning industry publishes standard for the industry.

Council Member Gardner commented on the need for increased resources.

Commissioner Avery commented on investing resources to regulate the industry and deliver a balance that works for everyone. He addressed the need to get a better picture of the industry, in general and take into consideration differences between vessels, their impacts, and income and City revenues.

Chair McIntosh suggested placing a spreadsheet on the City's website of all licensed charter operators

Recommendation:

- 1) Provide input to staff.

7) SUBCOMMITTEE REPORTS

Commissioner Girling commented on the need for discussion regarding large vessel mooring and charging appropriate fees.

Commissioner West reported on the goals and objectives of the Tidelands Management Committee and that Council will review them at their meeting of October 22, 2013.

Commissioner Stapleton commented on a recent Harbor Patrol ride-along with Commissioner Blank which turned from a whale-watching expedition to pump outs of vessels. Additionally, he commented on derelict vessels in the Harbor and stressed the need to address the matter in the future. In addition, he reported witnessing the continuing sea lion problem, a sunken barge and long-term boat residents. He addressed

increases in crime in the Harbor and stated there is no protocol for checking residents living on boats in the Harbor.

Discussion followed regarding defining, identifying derelict vessels and educating duffy rentals.

Commissioner Rhyne stated she would like direction or information regarding protocol in terms of Subcommittee meetings.

8) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES

Discussion followed regarding Lower Castaways steps to a launching pad and addressing concerns as the plan is developed. It was noted there is not a lot of current near the shore.

9) QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED ISSUES

Harbor Resources Manager Miller provided a report noting that regarding the Regional General Permit, the sediment testing component is nearly complete. The final report is being generated and staff is on track to submit it to the agencies at the end of October. The report can then be used as part of the application which will take approximately five (5) months. Regarding the Eelgrass Plan, he stated that it is on track and staff hopes it will be completed in the spring of 2014. Staff is trying to set up a meeting with the Coastal Commission to review the updates.

It was noted that the Invictus has been a good neighbor and that no complaints have been received. Mr. Miller reported that the only negative comment that was received related to the shifting position of the bow due to Santa Ana winds.

Mr. Miller reported that the matter will come before the Commission in November.

10) PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR QUESTIONS AND ANSWERS WITH COUNCIL LIAISON OR HARBOR RESOURCES MANAGER

Jim Mosher commented on the landing at Lower Castaways noting that it is the historic Newport Landing. He added that the beach extends along below the Castaways bluff used for recreation and fishing.

11) COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)

Commissioner Rhyne reported that she will miss the November meeting as she will be in Ft. Lauderdale for the National Committee with Boat U.S.

Commissioner Blank commented on the possibility of considering changing the Harbor Commission's meeting time and/or date on a future agenda to accommodate Commission Members attending Speak Up Newport events.

It was noted that the Coastal Commission will be speaking at the next meeting of Speak Up Newport.

12) DATE AND TIME FOR NEXT MEETING: November 13, 2013, 6:00 PM at Council Chambers at 3300 Newport Blvd.

13) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:39 PM.

